

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-253-E - ORDER NO. 1999-549
AUGUST 4, 1999

IN RE:	Application of Broad River Energy, LLC for)	ORDER GRANTING	✓ MR
	a Certificate of Environmental Compatibility)	MOTION TO PROCEED	
	and Public Convenience and Necessity.)	WITH PRELIMINARY	
)	SITE PREPARATION	

On June 7, 1999, Broad River Energy LLC ("Company") filed with the Public Service Commission of South Carolina ("Commission") an Application for a Certificate of Environmental Compatibility and Public Convenience and Necessity to construct and operate a generating plant for the production of electric power and energy in the vicinity of Gaffney, South Carolina. The Application was filed pursuant to the "Utility Facility Siting and Environmental Protection Act" as found in S.C. Code Ann. Section 58-33-10 (1976), et seq.

Thereafter, on July 14, 1999, the Company filed a Motion requesting permission to proceed with preliminary activities on the site of the intended "major utility facility" pending the Commission's review of the Company's Application. By its Motion, the Company asserts that it expects the generating plant that is the subject of the siting proceeding to be in commercial operation prior to June 2001. However, in order to meet that projected date, the Company asserts it must proceed with initial clearing and excavation of the site prior to the expected date by which the Commission might issue a final order in the instant docket. The Company also advises the Commission that the

preliminary site activities will not involve construction of permanent facilities. Further, the Company acknowledges that its preliminary activities do not constitute final approval of the proposed site or facility and that the Company is proceeding at its own risk.

Upon consideration of the Company's Motion, the Commission looks to "Utility Facility Siting and Environmental Protection Act" as found in S.C. Code Ann. Section 58-33-10 (1976), et seq. S.C. Code Ann. Section 58-33-110 (1976) provides that:

[t]he Commission shall have authority, where justified by public convenience and necessity, to grant permission to a person who has made application for a certificate under § 58-33-120 to proceed with initial clearing, excavation, dredging and construction; *provided, however*, that in engaging in such clearing, excavation, dredging or construction, the person shall proceed at his own risk, and such permission shall not in any way indicate approval by the Commission of the proposed site or facility. (Emphasis in original.)

Upon consideration of the Motion of the Company, the Commission finds and concludes that the Motion should be granted. The Commission finds that the public convenience and necessity justifies the granting of permission to proceed with the preliminary site preparation as the Company must proceed with preliminary site preparation activities to meet the projected date of operation of the facility. However, the Commission cautions the Company that it is proceeding at its own risk in undertaking preliminary site activities and further cautions the Company that the granting of this Motion in no way indicates approval by the Commission of the proposed site or facility.

IT IS THEREFORE ORDERED THAT:

1. The Company's Motion for permission to proceed with preliminary activities on the site of the intended "major utility facility" in the vicinity of Gaffney, South Carolina is granted.
2. The Commission cautions the Company that it is proceeding at its own risk in undertaking preliminary site activities and that the granting of this Motion in no way indicates approval by the Commission of the proposed site or facility.
3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)